

FILED/ACCEPTED

Aug 25, 2007

SEP 07 2007

Docket 97-80

FCC Public Comments  
445 10th Street SW  
Washington, DC 20554

Federal Communications Commission  
Office of the Secretary

As a consumer interested in protecting competition, innovation, and legitimate use of cable TV content, I urge you to refuse requests for waivers of 47 CFR 76.1204(a)(1) by NCTA, Charter, Verizon, and all other cable providers. The FCC's integration ban, which in effect requires cable companies to integrate CableCARDs into their own set-top boxes, remains good policy today.

Nine ten years after the Telecommunications Act of 1996, cable companies have dragged their feet long enough on competitive alternatives to proprietary set-top boxes, thus hampering innovation and harming consumers. The integration ban will also help market

competition prevent further restrictions on cable subscribers' ability to make legitimate use of recorded content.

By adopting content protection limits (encoding rules) in docket no. 97-80, the Commission recognized the importance of allowing consumers to make certain uses of TV content, regardless of a particular cable provider's or copyright holder's wishes. With competition spurred on

by the integration ban, consumers would have the freedom to choose the least restrictive cable-compatible device available. The CableCARD standard already prescribes restrictions that harm consumers by limiting non-infringing uses, and such restrictions will get even worse if cable providers' set-top boxes are unchecked by competition.

Please refuse requests for waivers of 47 CFR 76.1204(a)(1).

Sincerely,

Mrs. Kristen Smith  
1603 Twin Spires Trl  
Guthrie, OK 73044-8522

No. of Copies rec'd 0  
List A B C D E

Aug 15, 2007

SEP 07 2007

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97-80

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Please refuse requests for waivers of 47 CFR 76.1204(a)(1).

Sincerely,

Mr. Brian Thompson  
2891 E San Tan St  
Chandler, AZ 85225-4079

Aug 23, 2007

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97-80

FCC Public Comments  
445 12th Street SW  
Washington, DC 20554

SEP 07 2007

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Please refuse requests for waivers of 47 CFR 76.1204(a)(1).

Sincerely,

Mr. Elhanan Matos  
22958 Dolorosa St  
Woodland Hills, CA 91367-4321

Aug 28, 2007

FCC Public Comments  
445 12th Street SW  
Washington, DC 20554

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Federal Communications Commission  
Office of the Secretary

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Please refuse requests for waivers of 47 CFR 76.1204(a)(1).

Sincerely,

Mr. Errol Harvey  
575 Grand St Apt 2005  
New York, NY 10002-4321

Aug 28, 2007

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440 12th Street SW  
Washington, DC 20554

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Please refuse requests for waivers of 47 CFR 76.1204(a)(1).

Sincerely,

Mr. Jeffrey Sullivan  
1901 Newport Ct  
Southlake, TX 76092-9204

FILED/ACCEPTED

SEP 07 2007

Federal Communications Commission  
Office of the Secretary

**This is Docket #97-80**

April 22, 2007

Mr. William E. Kennard  
1400 L Street, N.W.  
Washington, DC 20004

Mr. Chairman, I am pleased to participate in this hearing on competition, innovation, and the future of cable TV content. I urge you to refuse requests for extensions of the FCC's 1992 decision by NAB, Charter, Verizon, and all other cable providers. The FCC's 1992 decision, which in effect required cable providers to retransmit broadcast TV into their own systems, is a landmark decision that has helped create a vibrant and competitive market.

Over the years, the FCC's 1992 decision has helped create a vibrant and competitive market. Cable providers have argued that they need to be able to control their own content, but this is not a valid argument. The FCC's 1992 decision has helped create a vibrant and competitive market, and it is time to let the market decide.

Competition is a proven method for increasing the quality of service and the ability of consumers to choose from a variety of options.

The FCC's 1992 decision has helped create a vibrant and competitive market. Cable providers have argued that they need to be able to control their own content, but this is not a valid argument. The FCC's 1992 decision has helped create a vibrant and competitive market, and it is time to let the market decide.

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Please excuse me from this hearing. I am sure you will find this information helpful.

Sincerely,

William E. Kennard  
1400 L Street, N.W.  
Washington, DC 20004

Aug 5, 2007

*DOCKET 97-80*

FILED/ACCEPTED  
SEP 07 2007

FCC Public Comments  
445 12th Street SW  
Washington, DC 20554

Federal Communications Commission  
Office of the Secretary

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Please refuse requests for waivers of 47 CFR 76.1204(a)(1).

Sincerely,

Mr. Jonathan Hildebrandt  
2708 Mayfair Ave N  
Seattle, WA 98109-1742

**This is Docket #97-80**

FILED/ACCEPTED  
SEP 07 2007  
Federal Communications Commission  
Office of the Secretary

information@eff.org wrote on 8/19/2007 10:10:32 AM :

Aug 19, 2007

Commissioner Robert McDowell

Dear Commissioner McDowell,

As a consumer interested in protecting competition, innovation, and legitimate use of cable TV content, I urge you to refuse requests for waivers of 47 CFR 76.1204(a)(1) by NCTA, Charter, Verizon, and all other cable providers. The FCC's integration ban, which in effect requires cable companies to integrate CableCARDs into their own set-top boxes, remains good policy today.

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Please refuse requests for waivers of 47 CFR 76.1204(a)(1).

Sincerely,

Mr. Randy Mercado  
27532 Serene Dr NE  
Kingston, WA 98346-9504

Aug 20, 2007

FCC Public Comments  
445 12th Street SW  
Washington, DC 20554

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Federal Communications Commission  
Office of the Secretary

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Please refuse requests for waivers of 47 CFR 76.1204(a)(1).

Sincerely,

Mr. Brian Coughlin  
1772 Sunlight Dr  
Longmont, CO 80501-2088

Docket 97-80

7/13/2007 2:02:09 PM - Email Acknowledgement sent to information@eff.org.

information@eff.org wrote on 7/13/2007 1:55:57 PM :

Jul 13, 2007

Commissioner Jonathan Adelstein

Dear Commissioner Adelstein,

As a consumer interested in protecting competition, innovation, and legitimate use of cable TV content, I urge you to refuse requests for waivers of 47 CFR 76.1204(a)(1) by NCTA, Charter, Verizon, and all other cable providers. The FCC's integration ban, which in effect requires cable companies to integrate CableCARDs into their own set-top boxes, remains good policy today.

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Please refuse requests for waivers of 47 CFR 76.1204(a)(1).

Oh and by the way... you should stop trying to legislate morality. The FCC should stop deciding what I can and cannot see and hear. I resent being subject to your notion of morality. Remain objective and stop trying to save America from itself.

Sincerely,

Mr. Greg Smith  
2074 Costa Vista Way  
Oceanside, CA 92054-6262

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SEP 07 2007  
Federal Communications Commission  
Office of the Secretary

**Docket #97-80**

**Richard C. Brooks, Jr.**

10975 Pennfield Road  
Dayton, OH 45458  
937.626.1970

August 27, 2007

Chairman Kevin Martin  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**FILED/ACCEPTED**

**SEP - 7 2007**

Federal Communications Commission  
Office of the Secretary

RE: Time Warner Cable use of Switched Digital Video for linear programming

Dear Chairman Martin:

I am writing you today to request that the FCC take immediate action to preclude Time Warner Cable ("TWC") from using "switched digital video" as a means of requiring consumers to utilize a leased set top boxes rather than a commercially available navigation device. This matter came to my attention on August 24, 2007 when I received notice from Time Warner Cable Southwest Ohio ("TWCSWO") that ESPN2HD would not be available to cablecard users.<sup>1</sup> This is apparently due to the fact that TWCSWO has opted to use "switched digital video" ("SDV") technology, technology which is incompatible with the current generation of cablecards.<sup>2</sup> In order to receive SDV programming such as ESPN2HD, a TWCSWO customer will be required to lease a set top box from TWCSWO. Because the use of SDV to deliver linear programming has the net effect of requiring the use of a leased set top box, TWCSWO's unilateral use of SDV is a direct assault on the Section 629 of the Communications Act (1996) which the FCC has fought so hard to enforce. Thus, I ask that the FCC take immediate action to preclude TWC from using SDV technology so that current cablecard users can continue to receive current and future cable programming.

### **I. Background**

Just last year I purchased a "digital cable ready" HDTV with built-in cablecard. I specifically purchased a cablecard equipped HDTV so that I would not have to pay a monthly fee. ESPN2HD has been available to cablecard users through Time Warner Cable in certain markets since the Spring of 2007. <sup>2</sup>For further information, see May 11, 2006 Letter from Steven N. Teplitz, Time Warner Cable, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission and the November 7, 2006 Proposal from the Consumer Electronics Association, fn. 8 (both available in CS Docket No. 97-80).

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lease for a cable set top box in order to receive HDTV programming. I subsequently purchased a digital video recorder ("DVR") and Digital-VHS deck which utilizes the cablecard in my HDTV to record high definition programming. The retailer, from whom I made the purchase of the HDTV, stated that the cablecard would enable me to receive current and future HDTV programming from TWCSWO. This is now obviously not the case. My experience in getting my "digital cable ready" cablecard television to function properly was not unlike the experiences of consumers submitted to the FCC under CS Docket No. 97-80. It took a number of months, including multiple service calls from TWCSWO and firmware upgrades from my television manufacturer, in order for my "digital cable ready" television to function properly. To this day, individual channels randomly disappear requiring me to unplug my television from its wall outlet and then plug it back in.<sup>3</sup> Now, just over one year after I purchased my "digital cable ready" television, TWCSWO's unilateral use of SDV threatens to make my "digital cable ready" television obsolete. Of course, I am not alone. Hundreds of thousands of consumers who own "digital cable ready" televisions and DVRs, such as the Series 3 HD Tivo, which all utilize cablecards, will be adversely affected by TWC's unilateral decision to utilize SDV for linear programming.

## **II. The Use of SDV Violates Section 629 of the Communications Act (1996)**

The purpose of the Section 629 of the Communications Act was to encourage the development of a competitive market for navigation devices whereby the consumer would not be required to indefinitely lease a set top box provided by the cable company. In *General Instrument Corporation v. FCC*<sup>4</sup>, the D.C. Circuit Court of Appeals acknowledged this intent by stating, "Converter boxes traditionally have been available to consumers only by lease from cable operators, as part of a cable service package. Section 629 of the Communications Act, passed by Congress as part of the Telecommunications Act of 1996, sought to change this state of affairs."<sup>5</sup> TWCSWO's use of SDV for linear programming threatens to undo the progress that has been made since the adoption of Section 629 in 1996. The TWCSWO notice states "unidirectional" cablecard users will not be able to receive ESPN2HD. Since no commercially available multi-directional cablecard devices exist in the marketplace and will not likely become available in the marketplace for several years, the net effect is that cablecard users will not receive ESPN2HD and any other SDV programming. In order for any consumer to obtain SDV programming, the consumer will be forced to lease a set top box. Beyond the immediate harm SDV will cause to current cablecard users, the FCC should consider the harm that the use of SDV presents to the competitive market for navigation devices in the future. Consumers acted in reliance on the cablecard standard when purchasing cablecard equipped televisions and DVRs. Although many consumers were aware that a cablecard

could not be used for "interactive" services like video on demand, consumers had every right to rely on the representation that current and future "linear" programming, like ESPN2HD, would continue to be made available to cablecard users. Moreover, the experience of current cablecard users will undoubtedly affect the marketplace for the next generation of navigation devices. Consumers must be assured that their navigation device will not become obsolete just two or three years after its purchase. Otherwise, rational consumers will opt to lease a set top box from the cable company rather than purchase a navigation device. By acting to preclude the use of SDV for linear programming like ESPN2HD, the FCC will help assure these future consumers that their purchases will not be made obsolete by the unilateral adoption of a new technological standard like SDV.

### **III. TWC has Other Alternatives Besides the Use of SDV**

In response to this letter, TWC will likely argue that the use of SDV is needed in order to allow TWC to conserve bandwidth so that additional HDTV programming can be offered in the future. It is interesting to note, however, that TWC appears to be the only major cable company to have utilized SDV. Other cable companies, such as Comcast, have managed to conserve bandwidth, not by utilizing SDV, but by migrating programming from analog to digital, enabling Comcast to carry new HDTV channels without disenfranchising current cablecard users.<sup>6</sup> TWC is capable of adopting the same approach as Comcast and other cable providers. Therefore, any action taken by the FCC to preclude TWC from using SDV will not have an adverse effect on the availability of future Programming.

### **IV. Conclusion**

ESPN2HD has been available to cablecard users through TWC in certain markets since the Spring of 2007. Now certain cablecard users in select TWC markets will be able to receive <sup>6</sup> See "Beam Me Up! Comcast Going All Digital Soon," Chicago Sun Times, April 6, 2007, available at <http://www.suntimes.com/business/330445,CST-FIN-cable06.article>; see also "Comcast's digital transition in Chicago rolls on, new HD channels launched", <http://www.engadgethd.com/2007/07/21/comcasts-digital-transition-in-chicago-rolls-on-new-hdchannel/> (both accessed 8/25/2007). ESPN2HD, while cablecard users in other markets, such as TWCSWO, will not. Unless the FCC immediately acts to preclude the use of SDV with ESPN2HD, TWC will be emboldened to adopt SDV in its other markets for current and future programming, rendering the current generation of cablecard equipped navigation devices obsolete just a few years after their introduction. By acting to preclude the use of SDV for linear programming, like ESPN2HD, the FCC will restore confidence in the marketplace for commercially available navigation devices. The consumers of the next generation of navigation devices will be assured that their purchase will not become obsolete at the sole discretion of their cable provider. For all the foregoing reasons, I urge the FCC to take immediate action to

preclude TWC from adopting the use of SDV for linear programming in its markets. In the alternative, I ask that the FCC specifically direct TWC to make ESPN2HD available to all users, including cablecard users, in all markets where TWC offers ESPN2HD.

Sincerely,

/s/

Richard C. Brooks, Jr.

cc: CS Docket 97-80